



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2008-0719, FRL-9901-07-OW]

Agency Information Collection Activities; Proposed Collection; Request for Comments on Three Proposed Information Collection Requests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this notice announces that the Environmental Protection Agency (EPA) is planning to submit a request to renew three existing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of Supplementary Information.

DATES: Comments must be submitted on or before [Insert date 60 days after publication in the FEDERAL REGISTER]

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OW-2008-0719, by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.
- E-mail: ow-docket@epa.gov (Identify Docket ID No. EPA-HQ-OW-2008-0719 in the subject line).
- Mail: Water Docket, Environmental Protection Agency, Mailcode: 28221T, ATTN: Docket ID #EPA-HQ-OW-2008-0719, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

Please include a total of three copies.

- Hand Delivery: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. ATTN: Docket ID # EPA-HQ-OW-2008-0719. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments identified by the Docket ID No. EPA-HQ-OW-2008-0719.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT:

Sandra Rivera, State and Regional Branch, Water Permits Division, OWM Mail Code: 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-1054; e-mail address: rivera.sandra@epa.gov

SUPPLEMENTARY INFORMATION:

An Agency may not conduct or sponsor, and a person is not required to respond to collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OW-2008-0719, which is available for online viewing at www.regulations.gov, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Water Docket is 202-566-2426.

Use www.regulations.gov to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the docket ID number identified in this document.

What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

A. LIST OF ICRS PLANNED TO BE SUBMITTED.

(1) Information Collection Request for Cooling Water Intake Structure Phase II Existing Facilities (Renewal), EPA ICR No. 2060.05, OMB Control No. 2040–0257; expiration date 01/31/2014.

(2) Information Collection Request for Cooling Water Intake Structures at Phase III Facilities (Renewal), EPA ICR No. 2169.03, OMB Control No. 2040–0268, expiration date 01/31/2014.

(3) Information Collection Request for Animal Sectors (Renewal); EPA ICR No. 1989.08; OMB Control No. 2040-0250, expiration date 01/31/2014.

B. INFORMATION ON INDIVIDUAL ICRS:

(1) Information Collection Request for Cooling Water Intake Structure Phase II Existing Facilities (Renewal), EPA ICR No. 2060.05, OMB Control No. 2040–0257; expiration date 01/31/2014.

Affected entities: Entities potentially affected by this action include existing electric power generating facilities meeting the applicability criteria of the 316(b) Phase II Existing Facility rule at 40 CFR 125.91.

Abstract: The section 316(b) Phase II Existing Facility rule requires the collection of information from existing point source facilities that generate and transmit electric power (as a primary activity) or generate electric power but sell it to another entity for transmission, use a cooling water intake structure (CWIS) that uses at least 25 percent of the water it withdraws from waters of the U.S. for cooling purposes, and have a design intake flow of 50 million gallons per day (MGD) or more. Section 316(b) of the Clean Water Act (CWA) requires that any standard established under section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction and capacity of CWISs at that facility reflect the best technology available (BTA) for minimizing adverse environmental impact. Such impact occurs as a result of impingement (where fish and other aquatic life are trapped on technologies at the entrance to CWIS) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The 316(b) Phase II rule establishes requirements applicable to the location, design, construction, and capacity of CWISs at Phase II existing facilities. These requirements establish the BTA for minimizing adverse environmental impact associated with the use of CWISs.

The 316(b) Phase II rule was signed on February 16, 2004. Industry and environmental groups, and a number of States filed legal challenges to the rule. Several issues were heard by the U.S. Court of Appeals for the Second Circuit, which issued a decision on January 25, 2007 remanding portions of the rule (see *Riverkeeper, Inc. v. U.S. EPA*, No. 04-6692-ag(L) [2d Cir.

Jan. 25, 2007]). EPA subsequently suspended the Phase II rule on July 9, 2007 and directed permit writers to continue to issue permits with 316(b) requirements developed using the permit writer's best professional judgment (BPJ). Industry groups petitioned and were granted certiorari from the Supreme Court, which issued a decision on April 1, 2009 (*Entergy Corp. v. Riverkeeper, Inc.*, No. 07-588). EPA is currently in the process of developing a revised rule for existing facilities and expects to publish the final rule by November 4, 2013.

EPA believes that the burden estimated in this ICR is likely to represent an upper bound on the burden that the public would incur in complying with BPJ-based permitting requirements for cooling water intake structures at large existing power plants over the next three years. EPA will submit a revised ICR with the new rule that reflects its specific requirements. The revised ICR will replace this one when the new rule is promulgated.

Burden Statement: The annual average reporting and record keeping burden for the collection of information by facilities responding to the Section 316(b) Phase II Existing Facility rule is estimated to be 2,046 hours per respondent (i.e., an annual average of 965,509 hours of burden divided among an anticipated annual average of 472 facilities). The State Director reporting and record keeping burden for the review, oversight, and administration of the rule is estimated to average 1,060 hours per respondent (i.e., an annual average of 44,513 hours of burden divided among an anticipated 42 States on average per year).

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 548 (506 facilities and 42 States).

Frequency of response: Every five years, bi-annually, monthly.

Estimated total average number of responses for each respondent: 5.2 for facilities (2,473 annual average responses for 472 average facility respondents) and 58.8 for States (2,472 annual average responses for 42 average State respondents).

Estimated total annual burden hours: 1,010,021 (965,509 for facilities and 44,513 for States).

Estimated total annual costs: \$59,478,399. This includes an estimated burden cost of \$48,890,325 and an estimated cost of \$10,588,074 for capital investment or maintenance and operational costs.

Change in Burden: There is a decrease of 13,500 (1%) hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This marginal change is due to the variations of the compliance schedule from year to year.

(2) Information Collection Request for Cooling Water Intake Structures at Phase III Facilities (Renewal), EPA ICR No. 2169.03, OMB Control No. 2040–0268, expiration date 01/31/2014.

Affected entities: Entities potentially affected by this action include new offshore oil and gas extraction facilities meeting the applicability criteria of the 316(b) Phase III Facilities at 40 CFR 125.131.

Abstract: The Section 316(b) regulations for Phase III facilities (71 FR 35006, June 16, 2006) require the collection of information from new offshore oil and gas extraction facilities that use a cooling water intake structure(s) that uses at least 25 percent of the water it withdraws for cooling purposes, and have a design intake flow greater than two (2) million gallons per day (MGD). Section 316(b) of the CWA requires that any standard established under section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction and capacity of cooling water intake structure(s) at that facility reflect the best

technology available for minimizing adverse environmental impact. Such impact occurs as a result of impingement (where fish and other aquatic life are trapped on structural components at the entrance to cooling water intake structures) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The rule contains requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new offshore oil and gas extraction facilities. These requirements seek to establish the best technology available for minimizing adverse environmental impact associated with the use of cooling water intake structure(s).

Burden Statement: The annual average burden for new offshore oil and gas facilities is 56,755 hours for an average of 55 facilities. Hence, the annual average reporting and record keeping burden for the collection of information by facilities responding to the Section 316(b) Phase III rule is estimated to be 1,032 hours per respondent (i.e., an annual average of 56,755 hours of burden divided among an anticipated annual average of 55 facilities). For new offshore oil and gas extraction facilities, the permitting process is handled directly by EPA Regions 4, 6, and 10. Since this burden is incurred by the Federal Government rather than the States, it is not included as part of the burden statement for State Directors.

Estimated total number of potential respondents: 61 facilities.

Frequency of response: Every five years, annual, monthly.

Estimated total average number of responses for each respondent: 4.6 for facilities (251 annual average responses for 55 average facility respondents).

Estimated total annual burden hours: 56,755 hours.

Estimated total annual costs: \$3,754,793. This includes an estimated labor burden cost of \$2,795,603 and an estimated cost of \$959,190 for capital investment or maintenance and operational costs.

Change in Burden: The current approved ICR for the Section 316(b) Phase III new offshore oil and gas facilities estimated an annual average respondent burden of 34,080 hours. This ICR estimates an annual average respondent burden of 56,755 hours, which represents a 67 percent increase (22,675 hours) in burden. The change in burden is mainly the result of the increase in the number of facilities performing recurring activities: this ICR includes burden for annual activities performed by respondents that have sought permit coverage in the last 6 years. As more facilities come on-line and receive permit coverage, more facilities have to perform these activities. This accounts for 22,146 additional average hours in this ICR (97.7% of the increase). Additional changes are the result of the continuous shift from the approval period to the permit implementation and renewal period of the Section 316(b) Phase III rule: in all three years covered by this ICR, facilities will be applying for a permit for the first time or re-applying for permit coverage that was obtained during the three years covered by the previous ICR. The increase of re-applications adds 529 hours to this ICR (2.3% of the increase).

(3) Information Collection Request for Animal Sectors (Renewal); EPA ICR No. 1989.08; OMB Control No. 2040-0250, expiration date 01/31/2014.

Affected entities: Entities potentially affected by this action are concentrated animal feeding operations (CAFOs) as specified in section 502(14) of the CWA, 33 U.S.C. 1362(14) and defined in the NPDES regulations at 40 CFR 122.23 and a subset of facilities engaged in aquatic animal production defined in 40 CFR part 451.

Abstract: This ICR covers the information collection burden imposed under the NPDES and ELG regulations for Concentrated Animal Feeding Operations (CAFO) and Concentrated Aquatic Animal Production (CAAP) facilities.

On July 30, 2012, EPA published its most recent revisions to the NPDES CAFO regulations (77 FR 44494). These revisions were necessary as a result of a court decision in 2011 by the United States Court of Appeals for the Fifth Circuit in litigation relating to the NPDES CAFO permitting program (*National Pork Producers Council v. EPA*, 635 F.3d 738, 756 (5th Cir. 2011)). Although the decision narrowed the scope of CAFOs that need to seek NPDES permit coverage, the Effluent Limitations Guidelines for CAFOs and other aspects of the permitting program remain unchanged. As a consequence, the recordkeeping and reporting requirements faced by those CAFOs that do seek NPDES permit coverage were not affected.

The Effluent Limitations Guidelines and Standards for the Concentrated Aquatic Animal Production (CAAP) Point Source Category establish specific reporting requirements for a portion of CAAP facilities through NPDES permits. The rule covers facilities which are defined as CAAP facilities (see 40 CFR 122.24 and 40 CFR Part 122) and produce at least 100,000 pounds of fish per year in flow through, recirculating and net pen systems. The special reporting and record-keeping requirements under the rule are the subject of this ICR. CAAP facility owners or operators are required to file reports with the permitting authority when drugs with special approvals are applied to the production units or a failure in the structural integrity occurs in the aquatic animal containment system.

Burden Statement: The annual average reporting and record keeping burden for the collection of information by CAFO and CAAP facilities is estimated to be 125 hours per respondent (i.e., an annual average of 2,606,066 hours of burden divided among an anticipated annual average of

20,915 facilities). The State Director reporting and record keeping burden for the review, oversight, and administration of the rule is estimated to average 11,538 hours per respondent (i.e., an annual average of 530,734 hours of burden divided among an anticipated 46 States on average per year).

Estimated total number of potential respondents: 21,667 (21,621 facilities and 46 States).

Frequency of response: varies from once to ongoing.

Estimated total average number of responses for each respondent: 149.5 for facilities (3,126,771 annual average responses for 20,915 average facility respondents) and 894.8 for States (41,159 annual average responses for 46 average State respondents).

Estimated total annual burden hours: 3,136,799 (2,606,066 for facilities and 530,734 for States).

Estimated total annual costs: \$70,924,281. This includes an estimated burden cost of \$62,317,281 and an estimated cost of \$8,607,000 for capital investment or maintenance and operational costs.

Change in Burden: The current burden approved by OMB for this ICR is 3,273,678 hours. This updated ICR estimates a total burden that is 136,879 hours less (4.2%) than the currently approved amount. On July 30, 2012, EPA published its most recent revisions to the NPDES CAFO regulations (77 FR 44494). These revisions were necessary as a result of a 2011 decision by the United States Court of Appeals for the Fifth Circuit regarding the NPDES CAFO permitting program (*National Pork Producers Council v. EPA*, 635 F.3d 738, 756 (5th Cir. 2011)). Although the court decision did not alter the Effluent Limitations Guidelines for NPDES-permitted CAFOs or recordkeeping and reporting requirements faced by those CAFOs that do seek NPDES permit coverage, it significantly narrowed the scope of CAFOs that need to

seek NPDES permit coverage. More specifically, the court vacated the requirement that CAFOs that “discharge or proposed to discharge” seek NPDES permit coverage, and ruled instead that only those CAFOs that experience actual discharges need permits. The resulting projected decline in NPDES CAFO permittees is estimated to cause a reduction of 636,192 hours for private respondents and 638 for State respondents.

What is the Next Step in the Process for these ICRs?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another Federal Register notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under FOR FURTHER INFORMATION CONTACT.

Dated: September 9, 2013.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

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